

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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DAVID B. TRACEY, DANIEL)	Civil Action No. 16-cv-11620-NMG
GUENTHER, MARIA T. NICHOLSON,)	
CORRINNE R. FOGG, AND VAHIK)	ORAL ARGUMENT REQUESTED
MINAIYAN, individually and as)	
representatives of a class of participants and)	
beneficiaries on behalf of the MIT)	
Supplemental 401(k) Plan,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	
)	
)	
MASSACHUSETTS INSTITUTE OF)	
TECHNOLOGY, THE MIT)	
SUPPLEMENTAL 401(K) PLAN)	
OVERSIGHT COMMITTEE, THE)	
ADMINISTRATIVE COMMITTEE,)	
ISRAEL RUIZ, MARC BERNSTEIN,)	
GLENN DAVID ELLISON, S.P.)	
KOTHARI, GUNTHER ROLAND,)	
LORRAINE A. GOFFE-RUSH, GLEN)	
SHOR, PAMELA WELDON, THOMAS)	
M. WIEAND, and BARTON ZWIEBACH)	
)	
<i>Defendants.</i>)	
_____)	

DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' CLASS ACTION COMPLAINT

Defendants Massachusetts Institute of Technology, the MIT Supplemental 401(k) Oversight Committee, the Administrative Committee, and the individually named defendants (collectively, "Defendants") hereby move to dismiss the Class Action Complaint filed by Plaintiffs David B. Tracey, Daniel Guenther, Maria T. Nicholson, Corrinne R. Fogg, and Vahik Minaiyan (the "Complaint"). For the reasons stated in the accompanying Memorandum of Law, the Complaint should be dismissed in its entirety and with prejudice because under Rule 12(b)(6)

of the Federal Rules of Civil Procedure, plaintiffs fail to state a claim upon which relief can be granted.

WHEREFORE, Defendants respectfully request dismissal of the Complaint.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7(d), Defendants request a hearing on this Motion. Defendants submit that a hearing shall assist the Court in its consideration and resolution of the issues presented herein.

Dated: October 5, 2016

Respectfully submitted,

DEFENDANTS

By their attorneys,

/s/ Meaghan VerGow
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LOCAL RULE 7.1(A)(2) CERTIFICATION

I, Meaghan VerGow, hereby certify that counsel for Defendants informed counsel for Plaintiffs on October 4, 2016 that Defendants intended to move to dismiss the Complaint for failure to state a claim. Counsel for Plaintiffs stated that Plaintiffs do not assent to such request for relief.

/s/ Meaghan VerGow

Meaghan VerGow

Attorney for Defendants

CERTIFICATE OF SERVICE

I, Meaghan VerGow, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on October 5, 2016.

/s/ Meaghan VerGow

Meaghan VerGow

Attorney for Defendants